



# House of Representatives

General Assembly

**File No. 500**

February Session, 2018

House Bill No. 5477

*House of Representatives, April 16, 2018*

The Committee on Judiciary reported through REP. TONG of the 147th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

## **AN ACT CONCERNING STATE V. MCCAILL.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 54-63f of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage*):

3 A person who has been convicted of any offense, except a violation  
4 of section 53a-54a, 53a-54b, 53a-54c or 53a-54d, [or any offense  
5 involving the use, attempted use or threatened use of physical force  
6 against another person,] and is either awaiting sentence or has given  
7 oral or written notice of such person's intention to appeal or file a  
8 petition for certification or a writ of certiorari may be released pending  
9 final disposition of the case, unless the court finds custody to be  
10 necessary to provide reasonable assurance of such person's appearance  
11 in court, upon the first of the following conditions of release found  
12 sufficient by the court to provide such assurance: (1) Upon such  
13 person's execution of a written promise to appear, (2) upon such  
14 person's execution of a bond without surety in no greater amount than  
15 necessary, (3) upon such person's execution of a bond with surety in no

16 greater amount than necessary, (4) upon such person's deposit, with  
17 the clerk of the court having jurisdiction of the offense with which  
18 such person stands convicted or any assistant clerk of such court who  
19 is bonded in the same manner as the clerk or any person or officer  
20 authorized to accept bail, a sum of money equal to the amount called  
21 for by the bond required by the court, or (5) upon such person's pledge  
22 of real property, the equity of which is equal to the amount called for  
23 by the bond required by the court, provided the person pledging such  
24 property is the owner of such property. When cash bail is offered, such  
25 bond shall be executed and the money shall be received in lieu of a  
26 surety or sureties upon such bond. Such cash bail shall be retained by  
27 the clerk of such court until a final order of the court disposing of the  
28 same is passed, provided, if such bond is forfeited, the clerk of such  
29 court shall pay the money to the payee named therein, according to the  
30 terms and conditions of the bond.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>from passage</i>	54-63f
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**JUD**      *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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***OFA Fiscal Note******State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill makes a technical change, removing an obsolete provision from statute and does not result in a fiscal impact.

***The Out Years******State Impact:*** None***Municipal Impact:*** None

**OLR Bill Analysis****HB 5477*****AN ACT CONCERNING STATE V. MCCAHERILL.*****SUMMARY**

This bill eliminates an obsolete provision from a law on post-conviction release on bond of defendants awaiting sentencing or appeal. Removing the provision conforms to a court case which held the language to be unconstitutional.

The case involved a statutory prohibition on courts from releasing on bail anyone convicted of any offense involving the use, attempted use, or threatened use of force. The Connecticut Supreme Court held that this provision was unconstitutional as violating the separation of powers, because it significantly interfered with the Superior Court's judicial role (*State v. McCahill*, 261 Conn. 492 (2002)).

The bill removes from the law the unconstitutional language. It retains in the law a provision that prohibits courts from releasing on bail anyone convicted of murder, murder with special circumstances, felony murder, or arson murder. (In *McCahill*, the court noted in dicta that this provision did not interfere with the Superior Court's role.)

EFFECTIVE DATE: Upon passage

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea 39 Nay 0 (03/28/2018)